

REMARKS/ARGUMENTS

Reconsideration of the above-identified patent application is respectfully requested in view of the foregoing amendments and following remarks. Claims 27 and 36 have been amended. Claims 33 and 35 have been cancelled, without prejudice. Claims 1-26, 28-30, 34, and 39-40 were previously cancelled. Claims 27, 31-32, and 36-38 remain in the case.

Claims 27, 31-33, and 35-38 were rejected under 35 U.S.C. §103(a) as being unpatentable in view of United States Patent No. 5,487,067 for AUDIO DATA COMMUNICATION, issued January 23, 1996 to Takashi Matsushige, et al. MATSUSHIGE et al. disclose an audio communication system useful for providing and integrating multi-channel audio communication within an audio studio. MATSUSHIGE et al. specifically teach the use of a ring network topology for implementing such communication. Ring networks require an unbroken, circular topology and typically are implemented within a confined geometric area. Moreover, MATSUSHIGE et al. provide a well-known arrangement of master-slave audio devices, masters and slaves being configurable for a particular session.

In contradistinction, Applicant's system provides a series of audio spaces possibly separated by long distances. For example, in her Detailed Description of the

Invention, Applicant describes a scenario wherein facilities in Los Angeles, Sidney, Tokyo, and London are linked in accordance with the present invention and listeners therein experience a substantially identical listening experience. Further, a person at a console, a digital audio workstation, or other similar audio signal manipulation device within ANY of the Los Angeles, Sidney, Tokyo, and London facilities may adjust the signal and affect the signal listened to in ALL of the facilities. Additionally, the change in the fader or other control is also transmitted to each of the other facilities where the corresponding fader or other audio control MOVES in synchronism with the movement of the originating control. This process may be affected in ANY of the linked facilities, thereby defining a master-to-master-to-master-to-master relationship of the aforementioned four facilities.

Applicant's linked spaces have been discussed in detail over the unusually lengthy prosecution of this application. In summary, the spaces are configured and equipped so that an identical electrical audio signal to each space produces a substantially identical listening experience in each of the spaces. There is no practical limit to the number of spaces that may be linked nor to the distance between individual linked spaces. The instant claims demand examination within this environment. Such examination has seemingly not been provided heretofore. Applicant respectfully reminds the Examiner that claims must be interpreted in view of the specification.

To reiterate, some of the prime emphases of Applicant's invention as described and claimed include:

i) a plurality of linked audio spaces having provision to provide substantially identical listening experiences to listeners therein in response to an identical audio signal applied thereto;

ii) a master-to-master relationship among all the linked audio spaces wherein a modification to the audio signal made at ANY of the linked spaces results in an identical signal change (and subsequent listening experience change) at ALL others of the linked spaces; and

iii) a linked tactility among the linked spaces whereby a movement of a fader or other audio control results in physical movement of the corresponding control in each of the other linked spaces.

MATSUSHIGE ET AL. neither teach nor suggest any of these provisions. The ring network of MATSUSHIGE et al. cannot practically be used to provide communication between, for example, Sydney and London. Neither does MATSUSHIGE et al. teach or suggest master-to-master-to-master, etc. communication.

Further, MATSUSHIGE et al. fail to teach or suggest the “linked tactility” of Applicant’s novel system.

The Examiner asserts that MATSUSHIGE et al. “discloses a plurality of typical audio/video studio (Figs. 13-17, col. 23, line 21, col. 25, line 25) that including [sic] different rooms (i.e., audio spaces such as sound room shows in Fig. 13).” The Examiner is correct in asserting that MATSUSHIGE et al. “discloses a plurality of typical audio/video studios.” However, Applicant discloses and claims very specialized audio spaces that are designed, constructed, and configured such that “a listener accommodated in any of said plurality of substantially acoustically identical enclosures so connected receives a substantially identical listening experience to that of a listener accommodated in any other one of said connected substantially acoustically identical enclosures when a substantially identical audio signal” is provided thereto (Claim 27). Applicant’s spaces are NOT typical studios but EXTREMELY specialized audio spaces that allow the invention to function successfully.

Further, MATSUSHIGE et al. fail to disclose a communication arrangement that allows an unlimited number of spaces with audio devices to be interlinked in a master-to-master-to... -master arrangement as disclosed and claimed by Applicant.

Finally, there is absolutely no teaching or suggestion of linked tactility as disclosed and claimed by Applicant. That is, MATSUSHIGE et al. fail to disclose or suggest that a change in one control in a first audio space affects movement of a corresponding control in all other connected audio spaces, as recited in the claims.

In addition, MATSUSHIGE et al. provide no specific parameters for the audio space or studio. Therefore, substantially acoustically identical enclosures are an integral component of Applicant's system, as the specific acoustic, physical, and technological considerations are necessary specifications for identical listening experiences. Said substantially acoustically identical enclosures are neither shown nor suggested in MATSUSHIGE et al. Moreover, MATSUSHIGE et al. would not be motivated to provide substantially acoustically identical enclosures since MATSUSHIGE et al. merely provide a mechanism for a single master transmitter to communicate with a plurality of slave receivers. (col. 2, lines 42-6). MATSUSHIGE et al. do not provide identical listening experiences to every listener in respective audio spaces.

Although MANN et al. was not included as part of the rejection, Applicant wishes to comment on it. MANN et al. disclose identical studios 1 and 2 having the exact standards and specifications-- physically, acoustically, and technologically; this design has little relation to Applicant's system. Without a master-to-master relationship among all the linked audio spaces wherein a modification to the audio signal made at ANY of the linked spaces results in an identical signal change (and subsequent listening

experience change) at ALL others of the linked spaces, and without a linked tactility among the linked spaces whereby a movement of a fader or other audio control results in physical movement of the corresponding control in each of the other linked spaces, MATSUSHIGE et al. fail to anticipate or render obvious Applicant's design. The physically, acoustically, and technologically identical studios are a component of the unique and substantially improved inventive virtual audio production studio.

'In determining the differences between the prior art and the claims, the question under 35 USC §103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.'

(MPEP 2141.02)

Additionally, Applicant asks that the legal precedent of such cases as Hewlett-Packard Co. v. Bausch & Lomb, Inc., in addition to Ruiz v. A.B. Chance Co. be applied in this case. To wit:

"There is no requirement to show 'operational differences' of the claimed device over the prior art."

"Apparatus claims cover what device is, not what device does, and thus invention need not operate differently than prior art in order to be patentable, but need only be different." Hewlett-Packard Co. v. Bausch & Lomb, Inc., 909 F.2d 1464, 1469; 15 USPQ2d 1525, 1528, (CAFC, 1990).

"The 'as a whole' instruction... prevents evaluation of the invention part by part."

"This form of hindsight reasoning, using the invention as a roadmap to find its prior art components, would discount the value of combining various existing features or principles in a new way to achieve a new result- often the very definition of invention."

Ruiz v. A.B. Chance Co., 69 USPQ2d 1686 (CAFC, 2004).

With respect to claim 32, Examiner Mei stated that MATSUSHIGE "...discloses the data transfer via the Ethernet," which renders Applicant's claim unallowable. In fact, MATSUSHIGE et al. teach away from the use of the Ethernet, stating, "...The required data transfer rate cannot be achieved using the Ethernet transfer format..." [emphasis added] (col. 26 lines 52-53)

Applicant has amended independent claims 27 and 36 to more clearly recite the novel system of the invention.

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Because the prior art of record, both taken alone or in combination, fails to disclose or suggest Applicant's system, Applicant respectfully traverses the rejection of claims 27 and 36 under 35 U.S.C. §103(a) as being unpatentable over MATSUSHIGE et al. and/or MANN et al. Claims 31 - 32 and 36 depend from claim 27 while claims 37-38 depend from claim 36 and merely recite additional limitations thereto. Consequently, their rejection under 35 U.S.C. §103(a) is respectfully traversed.

In view of the foregoing amendments and remarks, Applicant respectfully requests that claims 27, 31-32, and 36-38 be allowed and a timely Notice of Allowance be issued in this case.

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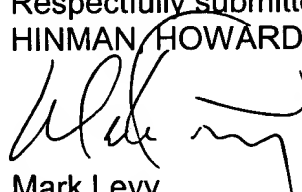
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